

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JACK JOHN C HAMANN,

Plaintiff,

v.

DR. CONRAD MAGNO, DDS,

Defendant.

ORDER

22-cv-245-wmc

Pro se plaintiff Jack John C. Hamann is proceeding on Eighth Amendment and related Wisconsin state-law medical care claims against Dr. Magno arising out of a tooth extraction. Hamann has filed a letter with the court concerning discovery and asking if he needs to file an amended complaint or motion to include a claim for punitive damages and a new factual allegation against defendant, as well as to ensure that certain pieces of evidence become part of the record. (Dkt. #21.)

Hamann should continue to use the court's preliminary pretrial conference order and packet as a guide in litigating this case. (Dkt. #17.) As a general matter, Hamann can submit the evidence in support of his claims that he wants the court to consider with his response to defendant's motion for summary judgment, should defendant file one. As for Hamann's request to add a claim for punitive damages and the allegation that Dr. Magno appeared to show bias against inmates before extracting Hamann's tooth, the court will construe the letter as a request for leave to amend the complaint and grant the motion. *See* Fed. R. Civ. P. 15(a)(2) (leave to amend should be freely given "when justice so requires"). The court will give defendant a short time to supplement his answer by responding only to Hamann's new damages claim and allegation.

Going forward, Hamann is advised that if he wants to amend his complaint, the proper course of action is to file a proposed amended complaint that includes all of his allegations along with a motion to amend, so if his request is granted, that document will serve as the operative complaint in this lawsuit.

ORDER

IT IS ORDERED that:

- 1) Plaintiff's motion to amend his complaint (dkt. #21) is GRANTED.
- 2) Defendant may have until January 24, 2023, to supplement his answer with responses to plaintiff's new allegation and damages claim.

Entered this 10th day of January, 2023.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge